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March 15, 2006

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**By Hand Delivery**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
c/o Natek, Inc., Inc.  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20002

Federal Communications Commission  
Office of Secretary

Re: RM-11311

Dear Ms. Dortch,

Enclosed please find an original and four copies of both a Motion to Accept Late-Filed Reply of Icom America, Inc. and the Reply of Icom America, Inc. Also enclosed please find a duplicate original copy. Please date-stamp the duplicate original and return it to the courier.

Please direct any questions concerning this filing to the undersigned.

Respectfully submitted,



Bruce A. Henoch

Enclosures

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List A B C D E

Before the  
FEDERAL COMMUNICATIONS COMMISSION **RECEIVED**  
Washington, D.C. 20554

MAR 15 2006

Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Amendment of Parts 22 and 90 of the ) RM - 11311  
Commission's Rules to Reallocate Certain 150 )  
MHz Public Mobile Radio Service Frequencies )  
to the Public Safety Radio Services )

To: The Commission

**MOTION TO ACCEPT LATE-FILED REPLY**

Icom America, Inc. ("Icom"), through counsel, hereby respectfully files this Motion to Accept Icom's Late-Filed Reply in the above-referenced proceeding. Icom had timely prepared its Reply to be filed on March 13, 2006, but due to an administrative error the Reply was not able to be filed until today, March 15, 2006. We note that the parties listed on the Certificate of Service attached to the Reply were timely served on March 13, 2006, and Icom therefore submits that no party will be prejudiced by the acceptance by the Commission of this late filing.

Icom is the party that initially filed the Petition that is the subject of this proceeding, and Icom therefore believes that its Reply is particularly relevant to this proceeding and that the Commission will not have a complete record upon which to base its decision without considering Icom's Reply.

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For these reasons, Icom submits that acceptance of Icom's late-filed Reply would be in the public interest.

Respectfully submitted,

ICOM AMERICA, INC.

By: Alan S. Tilles, Esquire

Its attorney

Shulman, Rogers, Gandal, Pordy & Ecker, P.A.  
11921 Rockville Pike, third Floor  
Rockville, Maryland 20852  
(301) 230-5200

Date: March 15, 2006

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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MAR 15 2006

Federal Communications Commission  
Office of Secretary

In the Matter of )  
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Amendment of Parts 22 and 90 of the ) RM - 11311  
Commission's Rules to Reallocate Certain 150 )  
MHz Public Mobile Radio Service Frequencies )  
to the Public Safety Radio Services )

To: The Commission

**REPLY**

Icom America, Inc. ("Icom"), through counsel and pursuant to Section 1.405(b) of the Commission's Rules, 47 C.F.R. §1.401, hereby respectfully submits its response to the Comments submitted by various parties in the above-captioned proceeding.

Icom is sensitive to the concerns of some paging entities that do not wish to see diminished opportunities for paging operations. However, Icom wishes to emphasize that its Petition was intended only to reallocate that spectrum which was presently unused, as well as give existing operators an opportunity, but not the obligation, to work with public safety licensees to further expand public safety systems.

Icom recognizes that the Commission has over the past few years made significant allocations of spectrum to meet public safety communications needs. However, such spectrum, including allocations in the 700 MHz, 800 MHz, and 4.9 GHz bands, is not compatible with existing operations in the VHF band. Rather, existing allocations in the band are unable to expand, because existing VHF public safety spectrum is already heavily loaded. This situation is

made worse by the lack of spectrum frequency pairs in the Part 90 VHF band, unlike the Part 22 channels.

VHF spectrum is particularly well suited for state-wide applications. Thus, the State of South Dakota requested and received a waiver to utilize Part 22 VHF channels to build out a state-wide public safety system. However, the continued use of waivers pursuant to Section 337(c) is contrary to the public interest, as the significant delays necessitated by the requests delays the ability of public safety agencies to add capacity to their systems. Further, unfortunately the Commission's change in terminology in Section 22.7 of its rules to substitute the word "licensee" for the words "common carrier" does not create eligibility for public safety licensees for Part 22 frequencies.

Icom is also sensitive to the concerns expressed that the lack of bids on VHF Part 22 channels which the Commission attempted to sell in Auctions 40 and 48 was not the result of lack of interest, but rather a reflection that the channels were heavily encumbered by existing licensees.

Prior to the submission of its Petition, Icom reviewed the Commission's database for incumbency on the unsold channel blocks. Attached hereto is a list of channel blocks which at that time were unsold and did not have any incumbent licensees located within the EA borders. This list assumes that all paging licensees on the frequencies at that time were operational, and thus represents the bare minimum number of channel blocks that are truly vacant. From this, it is readily apparent that sufficient paired spectrum exists which could be extremely beneficial to public safety licensees.

Since that time, the Commission has conducted an audit of paging licensees. This audit resulted in the cancellation of many paging licenses.<sup>1</sup> Thus, the number of channel blocks that are truly vacant is even larger.

Icom does not propose to limit the existing rights of licensees on these channels. Icom does not propose to limit the ability of paging licensees to provide service, or force such licensees to relinquish their authorizations. Rather, it is Icom's intention to have the Commission make available on a regular licensing basis for public safety licensees spectrum which could not be sold at auction for as little as \$350 per EA channel block.

The Commission has a unique opportunity to alleviate some of the spectrum congestion experienced by public safety licensees in the spectrum band which is utilized by over 70% of public safety entities, with channels that the Commission has been unable to virtually give away to non-public safety entities. Reallocation of the spectrum can not only help alleviate congestion, but may also permit re-banding to create channel pairs on existing 150 MHz public safety spectrum by utilizing the new spectrum's "green space".

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<sup>1</sup> [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-05-491A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-05-491A1.pdf).

WHEREFORE, the premises considered, it is respectfully requested that the Commission amend Sections 22.531, 22.561 and 90.20 of its Rules to reallocate certain 150 MHz Public Mobile Radio Service frequencies to the Public Safety Radio Services.<sup>2</sup>

Respectfully submitted,

ICOM AMERICA, INC.

By: Alan S. Tilles, Esquire

Its Attorney

Shulman, Rogers, Gandal, Pordy & Ecker, P.A.  
11921 Rockville Pike, Third Floor  
Rockville, Maryland 20852  
301-230-5200

Date: March 13, 2006

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<sup>2</sup> The Comments of the "Concerned Part 22 Carriers" states that Icom failed to provide exact language for its proposed rule change, and therefore the Petition should be dismissed as procedurally defective. However, Section 1.401(c) of the Commission's Rules states that the Petition shall provide the "test or substance" of the proposed rule. Icom believes that it has provided more than adequate "substance" to ensure compliance with this rule. *Dale E. Reich*, 19 FCC Rcd 23216 (WTB 2004).

## CERTIFICATE OF SERVICE

I, Regan Burn, hereby certify that I am employed in the law offices of Shulman Rogers Gandal Pordy & Ecker, P.A. and that I have on this 13<sup>th</sup> day of March, 2006, sent a copy of the foregoing Reply by United States first class mail, postage prepaid, to the following:

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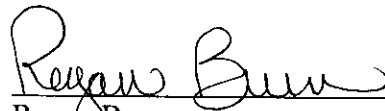
City of Chicago  
1411 West Madison  
Chicago, IL 60607

State of Wisconsin



Dept. of Transportation  
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Washington, D.C. 20036

  
\_\_\_\_\_  
Regan Burn

Market	Name	Block
BEA001	Bangor ME	FH
BEA022	Fayetteville NC	FI
BEA022	Fayetteville NC	FL
BEA022	Fayetteville NC	FM
BEA022	Fayetteville NC	FR
BEA026	Charleston-North Charleston SC	FF
BEA026	Charleston-North Charleston SC	FI
BEA026	Charleston-North Charleston SC	FJ
BEA026	Charleston-North Charleston SC	FM
BEA026	Charleston-North Charleston SC	FO
BEA026	Charleston-North Charleston SC	FP
BEA027	Augusta-Aiken GA-SC	FC
BEA027	Augusta-Aiken GA-SC	FL
BEA027	Augusta-Aiken GA-SC	FN
BEA027	Augusta-Aiken GA-SC	FO
BEA027	Augusta-Aiken GA-SC	FR
BEA028	Savannah GA-SC	FE
BEA028	Savannah GA-SC	FN
BEA028	Savannah GA-SC	FO
BEA028	Savannah GA-SC	FP
BEA033	Sarasota-Bradenton FL	FA
BEA033	Sarasota-Bradenton FL	FB
BEA033	Sarasota-Bradenton FL	FE
BEA033	Sarasota-Bradenton FL	FG
BEA036	Dothan AL-FL-GA	FF
BEA037	Albany GA	FA
BEA037	Albany GA	FB
BEA037	Albany GA	FE
BEA037	Albany GA	FG
BEA037	Albany GA	FN
BEA038	Macon GA	FM
BEA038	Macon GA	FQ
BEA038	Macon GA	FR
BEA039	Columbus GA-AL	FE
BEA039	Columbus GA-AL	FF
BEA039	Columbus GA-AL	FN
BEA039	Columbus GA-AL	FO
BEA039	Columbus GA-AL	FQ
BEA039	Columbus GA-AL	FR
BEA041	Greenville-Spartanburg SC-NC	FI
BEA042	Asheville NC	FA
BEA042	Asheville NC	FB
BEA042	Asheville NC	FC
BEA042	Asheville NC	FE
BEA042	Asheville NC	FF
BEA042	Asheville NC	FG
BEA042	Asheville NC	FH
BEA042	Asheville NC	FI
BEA042	Asheville NC	FJ
BEA042	Asheville NC	FK
BEA042	Asheville NC	FL
BEA042	Asheville NC	FM
BEA042	Asheville NC	FN
BEA042	Asheville NC	FR
BEA043	Chattanooga TN-GA	FC
BEA043	Chattanooga TN-GA	FG
BEA043	Chattanooga TN-GA	FI

Market	Name	Block
BEA043	Chattanooga TN-GA	FN
BEA043	Chattanooga TN-GA	FO
BEA043	Chattanooga TN-GA	FQ
BEA043	Chattanooga TN-GA	FR
BEA044	Knoxville TN	FA
BEA044	Knoxville TN	FB
BEA044	Knoxville TN	FC
BEA044	Knoxville TN	FE
BEA044	Knoxville TN	FG
BEA044	Knoxville TN	FH
BEA044	Knoxville TN	FI
BEA044	Knoxville TN	FJ
BEA044	Knoxville TN	FK
BEA044	Knoxville TN	FM
BEA044	Knoxville TN	FO
BEA044	Knoxville TN	FP
BEA044	Knoxville TN	FQ
BEA044	Knoxville TN	FR
BEA045	Johnson City-Kingsport TN-VA	FA
BEA045	Johnson City-Kingsport TN-VA	FG
BEA045	Johnson City-Kingsport TN-VA	FI
BEA045	Johnson City-Kingsport TN-VA	FJ
BEA045	Johnson City-Kingsport TN-VA	FK
BEA045	Johnson City-Kingsport TN-VA	FM
BEA045	Johnson City-Kingsport TN-VA	FN
BEA045	Johnson City-Kingsport TN-VA	FO
BEA045	Johnson City-Kingsport TN-VA	FP
BEA045	Johnson City-Kingsport TN-VA	FQ
BEA045	Johnson City-Kingsport TN-VA	FR
BEA046	Hickory-Morganton NC-TN	FH
BEA046	Hickory-Morganton NC-TN	FI
BEA046	Hickory-Morganton NC-TN	FJ
BEA046	Hickory-Morganton NC-TN	FL
BEA046	Hickory-Morganton NC-TN	FM
BEA046	Hickory-Morganton NC-TN	FN
BEA046	Hickory-Morganton NC-TN	FR
BEA047	Lexington KY-TN-VA-WV	FG
BEA047	Lexington KY-TN-VA-WV	FH
BEA047	Lexington KY-TN-VA-WV	FI
BEA047	Lexington KY-TN-VA-WV	FN
BEA047	Lexington KY-TN-VA-WV	FQ
BEA047	Lexington KY-TN-VA-WV	FR
BEA049	Cincinnati-Hamilton OH-KY-IN	FE
BEA049	Cincinnati-Hamilton OH-KY-IN	FI
BEA050	Dayton-Springfield OH	FE
BEA050	Dayton-Springfield OH	FH
BEA050	Dayton-Springfield OH	FI
BEA050	Dayton-Springfield OH	FL
BEA050	Dayton-Springfield OH	FP
BEA066	Fort Wayne IN	FB
BEA066	Fort Wayne IN	FC
BEA066	Fort Wayne IN	FE
BEA066	Fort Wayne IN	FF
BEA066	Fort Wayne IN	FH
BEA066	Fort Wayne IN	FI
BEA066	Fort Wayne IN	FJ
BEA066	Fort Wayne IN	FK

Market	Name	Block
BEA066	Fort Wayne IN	FL
BEA066	Fort Wayne IN	FM
BEA066	Fort Wayne IN	FN
BEA066	Fort Wayne IN	FO
BEA066	Fort Wayne IN	FP
BEA066	Fort Wayne IN	FQ
BEA066	Fort Wayne IN	FR
BEA068	Champaign-Urbana IL	FC
BEA068	Champaign-Urbana IL	FE
BEA068	Champaign-Urbana IL	FI
BEA068	Champaign-Urbana IL	FL
BEA068	Champaign-Urbana IL	FP
BEA068	Champaign-Urbana IL	FQ
BEA068	Champaign-Urbana IL	FR
BEA069	Evansville-Henderson IN-KY-IL	FJ
BEA069	Evansville-Henderson IN-KY-IL	FK
BEA069	Evansville-Henderson IN-KY-IL	FM
BEA069	Evansville-Henderson IN-KY-IL	FN
BEA069	Evansville-Henderson IN-KY-IL	FO
BEA069	Evansville-Henderson IN-KY-IL	FQ
BEA071	Nashville TN-KY	FR
BEA072	Paducah KY-IL	FC
BEA072	Paducah KY-IL	FD
BEA072	Paducah KY-IL	FE
BEA072	Paducah KY-IL	FG
BEA072	Paducah KY-IL	FH
BEA072	Paducah KY-IL	FI
BEA072	Paducah KY-IL	FJ
BEA072	Paducah KY-IL	FK
BEA072	Paducah KY-IL	FM
BEA072	Paducah KY-IL	FN
BEA072	Paducah KY-IL	FO
BEA072	Paducah KY-IL	FQ
BEA072	Paducah KY-IL	FR
BEA074	Huntsville AL-TN	FF
BEA074	Huntsville AL-TN	FJ
BEA074	Huntsville AL-TN	FO
BEA074	Huntsville AL-TN	FP
BEA074	Huntsville AL-TN	FQ
BEA074	Huntsville AL-TN	FR
BEA076	Greenville MS	FA
BEA076	Greenville MS	FB
BEA076	Greenville MS	FE
BEA076	Greenville MS	FF
BEA076	Greenville MS	FI
BEA076	Greenville MS	FJ
BEA076	Greenville MS	FK
BEA076	Greenville MS	FM
BEA076	Greenville MS	FN
BEA076	Greenville MS	FO
BEA076	Greenville MS	FP
BEA077	Jackson MS-AL-LA	FI
BEA077	Jackson MS-AL-LA	FJ
BEA077	Jackson MS-AL-LA	FO
BEA079	Montgomery AL	FC
BEA079	Montgomery AL	FE
BEA079	Montgomery AL	FF

Market	Name	Block
BEA079	Montgomery AL	FG
BEA079	Montgomery AL	FM
BEA079	Montgomery AL	FO
BEA079	Montgomery AL	FP
BEA080	Mobile AL	FC
BEA080	Mobile AL	FH
BEA080	Mobile AL	FM
BEA080	Mobile AL	FQ
BEA081	Pensacola FL	FH
BEA081	Pensacola FL	FI
BEA081	Pensacola FL	FJ
BEA081	Pensacola FL	FO
BEA081	Pensacola FL	FP
BEA081	Pensacola FL	FQ
BEA082	Biloxi-Gulfport-Pascagoula MS	FB
BEA082	Biloxi-Gulfport-Pascagoula MS	FI
BEA082	Biloxi-Gulfport-Pascagoula MS	FM
BEA082	Biloxi-Gulfport-Pascagoula MS	FP
BEA084	Baton Rouge LA-MS	FI
BEA084	Baton Rouge LA-MS	FM
BEA084	Baton Rouge LA-MS	FQ
BEA085	Lafayette LA	FB
BEA085	Lafayette LA	FC
BEA085	Lafayette LA	FE
BEA085	Lafayette LA	FF
BEA085	Lafayette LA	FG
BEA085	Lafayette LA	FI
BEA085	Lafayette LA	FJ
BEA085	Lafayette LA	FM
BEA085	Lafayette LA	FN
BEA085	Lafayette LA	FO
BEA085	Lafayette LA	FQ
BEA086	Lake Charles LA	FJ
BEA086	Lake Charles LA	FM
BEA086	Lake Charles LA	FO
BEA086	Lake Charles LA	FP
BEA086	Lake Charles LA	FQ
BEA088	Shreveport-Bossier City LA-AR	FI
BEA088	Shreveport-Bossier City LA-AR	FJ
BEA088	Shreveport-Bossier City LA-AR	FM
BEA088	Shreveport-Bossier City LA-AR	FP
BEA088	Shreveport-Bossier City LA-AR	FQ
BEA089	Monroe LA	FA
BEA089	Monroe LA	FD
BEA089	Monroe LA	FI
BEA089	Monroe LA	FJ
BEA089	Monroe LA	FN
BEA089	Monroe LA	FQ
BEA091	Fort Smith AR-OK	FA
BEA091	Fort Smith AR-OK	FB
BEA091	Fort Smith AR-OK	FC
BEA091	Fort Smith AR-OK	FD
BEA091	Fort Smith AR-OK	FE
BEA091	Fort Smith AR-OK	FF
BEA091	Fort Smith AR-OK	FG
BEA091	Fort Smith AR-OK	FJ
BEA091	Fort Smith AR-OK	FK

Market	Name	Block
BEA091	Fort Smith AR-OK	FL
BEA091	Fort Smith AR-OK	FM
BEA091	Fort Smith AR-OK	FO
BEA091	Fort Smith AR-OK	FP
BEA091	Fort Smith AR-OK	FR
BEA095	Jonesboro AR-MO	FA
BEA095	Jonesboro AR-MO	FB
BEA095	Jonesboro AR-MO	FC
BEA095	Jonesboro AR-MO	FF
BEA095	Jonesboro AR-MO	FG
BEA095	Jonesboro AR-MO	FH
BEA095	Jonesboro AR-MO	FI
BEA095	Jonesboro AR-MO	FJ
BEA095	Jonesboro AR-MO	FM
BEA095	Jonesboro AR-MO	FO
BEA095	Jonesboro AR-MO	FQ
BEA097	Springfield IL-MO	FA
BEA097	Springfield IL-MO	FB
BEA097	Springfield IL-MO	FC
BEA097	Springfield IL-MO	FD
BEA097	Springfield IL-MO	FG
BEA097	Springfield IL-MO	FJ
BEA097	Springfield IL-MO	FL
BEA097	Springfield IL-MO	FM
BEA097	Springfield IL-MO	FR
BEA103	Cedar Rapids IA	FR
BEA109	Duluth-Superior MN-WI	FD
BEA109	Duluth-Superior MN-WI	FE
BEA109	Duluth-Superior MN-WI	FF
BEA109	Duluth-Superior MN-WI	FK
BEA109	Duluth-Superior MN-WI	FL
BEA109	Duluth-Superior MN-WI	FN
BEA109	Duluth-Superior MN-WI	FP
BEA110	Grand Forks ND-MN	FB
BEA110	Grand Forks ND-MN	FC
BEA110	Grand Forks ND-MN	FE
BEA110	Grand Forks ND-MN	FF
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BEA111	Minot ND	FF
BEA111	Minot ND	FI
BEA111	Minot ND	FR
BEA119	Lincoln NE	FB
BEA119	Lincoln NE	FF
BEA120	Grand Island NE	FN
BEA121	North Platte NE-CO	FB
BEA121	North Platte NE-CO	FC
BEA121	North Platte NE-CO	FD
BEA121	North Platte NE-CO	FE
BEA121	North Platte NE-CO	FQ
BEA124	Tulsa OK-KS	FA
BEA124	Tulsa OK-KS	FE
BEA124	Tulsa OK-KS	FK
BEA124	Tulsa OK-KS	FL
BEA124	Tulsa OK-KS	FO
BEA124	Tulsa OK-KS	FR
BEA129	San Angelo TX	FF
BEA129	San Angelo TX	FI

Market	Name	Block
BEA129	San Angelo TX	FJ
BEA129	San Angelo TX	FK
BEA129	San Angelo TX	FL
BEA129	San Angelo TX	FM
BEA129	San Angelo TX	FN
BEA129	San Angelo TX	FO
BEA129	San Angelo TX	FQ
BEA132	Corpus Christi TX	FB
BEA132	Corpus Christi TX	FC
BEA132	Corpus Christi TX	FE
BEA132	Corpus Christi TX	FF
BEA132	Corpus Christi TX	FG
BEA132	Corpus Christi TX	FI
BEA132	Corpus Christi TX	FJ
BEA132	Corpus Christi TX	FM
BEA135	Odessa-Midland TX	FC
BEA135	Odessa-Midland TX	FD
BEA135	Odessa-Midland TX	FG
BEA135	Odessa-Midland TX	FI
BEA135	Odessa-Midland TX	FO
BEA135	Odessa-Midland TX	FQ
BEA135	Odessa-Midland TX	FR
BEA137	Lubbock TX	FF
BEA142	Scottsbluff NE-WY	FB
BEA142	Scottsbluff NE-WY	FE
BEA142	Scottsbluff NE-WY	FF
BEA142	Scottsbluff NE-WY	FI
BEA142	Scottsbluff NE-WY	FJ
BEA142	Scottsbluff NE-WY	FK
BEA142	Scottsbluff NE-WY	FL
BEA142	Scottsbluff NE-WY	FM
BEA142	Scottsbluff NE-WY	FO
BEA142	Scottsbluff NE-WY	FQ
BEA143	Casper WY-ID-UT	FI
BEA143	Casper WY-ID-UT	FP
BEA144	Billings MT-WY	FQ
BEA145	Great Falls MT	FD
BEA145	Great Falls MT	FE
BEA145	Great Falls MT	FG
BEA145	Great Falls MT	FH
BEA145	Great Falls MT	FI
BEA145	Great Falls MT	FJ
BEA145	Great Falls MT	FL
BEA145	Great Falls MT	FN
BEA145	Great Falls MT	FO
BEA150	Boise City ID-OR	FP
BEA173	Guam-Northern Mariana Islands	FB
BEA173	Guam-Northern Mariana Islands	FC
BEA173	Guam-Northern Mariana Islands	FD
BEA173	Guam-Northern Mariana Islands	FE
BEA173	Guam-Northern Mariana Islands	FF
BEA173	Guam-Northern Mariana Islands	FG
BEA173	Guam-Northern Mariana Islands	FH
BEA173	Guam-Northern Mariana Islands	FI
BEA173	Guam-Northern Mariana Islands	FJ
BEA173	Guam-Northern Mariana Islands	FK
BEA173	Guam-Northern Mariana Islands	FL

Market	Name	Block
BEA173	Guam-Northern Mariana Islands	FM
BEA173	Guam-Northern Mariana Islands	FN
BEA173	Guam-Northern Mariana Islands	FO
BEA173	Guam-Northern Mariana Islands	FP
BEA173	Guam-Northern Mariana Islands	FQ
BEA173	Guam-Northern Mariana Islands	FR
BEA174	Puerto Rico-US Virgin Islands	FC
BEA174	Puerto Rico-US Virgin Islands	FG
BEA174	Puerto Rico-US Virgin Islands	FJ
BEA174	Puerto Rico-US Virgin Islands	FL
BEA174	Puerto Rico-US Virgin Islands	FP
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BEA175	American Samoa	FE
BEA175	American Samoa	FF
BEA175	American Samoa	FG
BEA175	American Samoa	FH
BEA175	American Samoa	FI
BEA175	American Samoa	FJ
BEA175	American Samoa	FK
BEA175	American Samoa	FL
BEA175	American Samoa	FM
BEA175	American Samoa	FN
BEA175	American Samoa	FO
BEA175	American Samoa	FP
BEA175	American Samoa	FQ